

# Senate Bill 1369 - Frequently Asked Questions

## Who?

### 1. Which courts need to report the information required by SB 1369?

All courts must submit a report each month, even if there is no reportable activity. While the requirements of reporting appointments and fees applied only to district and county courts in the past, the requirements of SB 1369 apply to all courts in the state, including appellate, justice, municipal and truancy courts.

### 2. My court does not make appointments. Do I have to report?

Yes. All courts are required to report whether or not there is reportable activity. Courts with no activity to report must submit "No Activity" reports each month.

## When?

### 1. When do I need to start reporting this information?

The Supreme Court has required reporting of this information for all civil cases filed in district and county courts since 1993. The additional requirements contained in SB 1369 go into effect on **September 1, 2016**.

### 2. The date of appointment and the date of payment/fee approval are different. When do we report the information?

Each court will be required to submit each month a report for all appointments made during the month and a report for all payments made during the month, so the appointment will be reported in the month that it is made and the payment/fee approval will be reported separately in the month it was made or approved.

### 3. Courts prepare vouchers to pay attorneys/mediators on a quarterly basis, so I (the clerk) cannot accurately report correct amounts for each month. What should I do?

Compensation/fee approval is to be reported in the month that it is paid. Therefore, compensation for those attorneys would be reported on a quarterly basis. If no other payments are made in other months, the clerk must be sure to submit a "No Activity" report for those months.

## What?

### 1. Will the information required by Supreme Court Order 07-9188 still need to be reported?

Yes. The Court intends to leave the current reporting requirements in place. Judicial Council reporting rules will be changed to incorporate the Supreme Court order and require **that all appointments and all fees in civil, family and probate cases** be reported by the 15<sup>th</sup> of the next month.

### 2. The Supreme Court Order does not mention Title 5 (Child Protective Services cases) of the Family Code. Do CPS cases need to be reported?

Yes. The requirements of SB 1369 apply to CPS cases. The exceptions are:

- a guardian ad litem or other person appointed under a program authorized by Sec. 107.031, Family

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Code (volunteer advocates in child protection cases) or

- an attorney ad litem, guardian ad litem, amicus attorney or mediator appointed under a domestic relations office established under Chapter 203, Family Code.

### **3. Do appointments in parental notification/judicial bypass cases need to be reported?**

Information on parental notification/judicial bypass cases should NOT be reported. This information is confidential and is exempted from the reporting requirements. ("The reporting requirements...do not apply to...information made confidential under state or federal law, including applicable rules.")

### **4. Do appointments of attorneys for indigency in criminal or juvenile cases need to be reported?**

No. Those are all being reported to the Texas Indigent Defense Commission.

### **5. Do appointments of mental health professionals whose function is to determine: (1) the competency of a defendant/respondent to stand trial in a criminal/juvenile case and/or (2) the sanity of a defendant/respondent in a criminal/juvenile case need to be reported?**

No. Only appointments of a physician or psychologist who performs examinations to determine whether an individual is incapacitated or has an intellectual disability for purposes of appointing a guardian for the individual need to be reported.

### **6. Is a report required in the following scenarios?**

- a. CPS cases: judge authorizes mediation (does not order or appoint) that the county pays for; district attorney maintains the list of mediators and assigns the case to a mediator*
- b. Civil and family cases: local rules mandate mediation for nearly all cases and county does not maintain list of mediators*
- c. Cases in which mediator is selected by agreement of the parties*
- d. Appointees under contract that receive specific dollar amount each month (not dependent on the number of cases assigned)*
- e. Fees paid from sources other than county funds ("private pay" cases)*

Yes to all of the above.

## **Where?**

### **1. The clerk must post the report each month on "at the courthouse" of the county in which the court is located. Where does the report need to be posted?**

The report should be posted wherever all other court-related notices, dockets and documents are posted.

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- 2. The clerk must post the report each month on “any Internet website of the court.” Where does the report need to be posted?**

The county may determine where the best place to post the list may be. In most cases, this is likely to be the website of the district or county clerk since the clerk is responsible for maintaining the records of the courts and preparing and submitting the report.

- 3. A) Can we fulfill the requirement to post the appointments and fees reports on the county’s website by providing a link to OCA’s website?**

OCA does not recommend this approach, particularly due to the fact that you would not be able to provide a link to the information for your county only. The interested party would need to sort through the information from all counties in the state. OCA recommends you contact your county attorney for their interpretation and counsel regarding this approach.

- B) Would this fulfill the records retention requirement (Supreme Court Order 07-9188 requires the reports to be made available for public inspection for 2 years)?**

Records maintained to satisfy this provision should be maintained by the records custodian of the entity that created the report, not OCA as the entity that receives the repo

- 4. Where will I submit my report to OCA?**

Through the same system that you submit your monthly court activity reports and appointments and fees reports: <http://card.txcourts.gov/>.

### How?

- 1. How will I be able to get payment information in the following scenarios?**

- a. “Private pay” cases – county only has information on compensation paid by the county; how do we determine what fees are paid when they are coming from another source?*
- b. Appointees under contract*

As stated in the Supreme Court order,

- each appointment is to be made by a written order;
- each approval of the payment of a fee is to be accomplished by a separate written order; and
- orders making appointments or approving the payment of fees are to be sufficiently specific to enable the clerks to prepare the required monthly reports.

Judges and clerks will need to locally determine the specifics about how the required information is to be obtained.

- 2. How will this information be reported to OCA?**

The existing Appointments and Fees database will be modified to meet the requirements of SB 1369. District and county clerks will notice little difference from how they are currently reporting. Fields will be

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added to capture Number of Hours Billed and Bill Expenses for cases in which the fee is more than \$1,000. A field will also be added to indicate whether a report is for appointments or payments.

Consult the materials posted on the Appointments and Fees webpage (<http://www.txcourts.gov/statistics/appointments-fees-in-civil-cases.aspx>) to get information about how the current reporting process works.

Updated reporting instructions and XML specifications will be released when they are ready.